

State of Michigan
Independent Citizens Redistricting Commission (MICRC)
Public Record Request Procedures and Guidelines

Adopted February 18, 2021

Amended March 10, 2022

Amended April 28, 2022

MICRC PUBLIC RECORD REQUEST PROCEDURES AND GUIDELINES

A. Purpose

These Procedures and Guidelines are adopted pursuant to the MICRC Rules of Procedure, *Section 13.0, Public Access to Commission Records*, dated February 4, 2021, and amended January 13, 2022. These Procedures and Guidelines are consistent with the Michigan Supreme Court opinion in *The Detroit News v. Independent Citizens Redistricting Commission*, ___Mich___ (2021) (Docket 163823). The Michigan Independent Citizens Redistricting Commission (MICRC) is a public body required by the Constitution to provide public records to persons requesting public records unless those records are exempt from public disclosure by law. These Policies and Procedures are intended to ensure uniformity of practice and procedures in the release of public records and in the fees charged for the cost of processing a request for public records.

B. Appointment of a Public Record Coordinator

The Commission has assigned the responsibilities of Public Record Coordinator to the Executive Director of the MICRC to handle or to delegate, or in the absence of an Executive Director, to the Secretary of State in its constitutional role as nonvoting secretary to the MICRC.

C. Submission of a Public Record Request

Written Public Record requests or the completed Michigan Independent Citizens Redistricting Commission (MICRC) Public Record request form available at [RedistrictingMichigan.org](https://www.RedistrictingMichigan.org) can be submitted in one of the following ways:

- Email: MICRC-FOIA@Michigan.gov; or
- Mail:

Michigan Independent Citizens Redistricting Commission (MICRC)
c/o Michigan Department of State
Attn: FOIA Coordinator
P.O. Box 30204
Lansing, MI 48918

All Public Record requests are required to include a full name, phone number and mailing address. Verbal requests for public records are not accepted.

D. Immediately Forward Public Record Request

Any individual associated with the MICRC, being individual Commissioners or staff who receive a written request for a public record must immediately forward that request to the Public Record Coordinator. If an individual receives a written request for a public record that is delivered to a spam or junk-mail folder, that individual must record the date and time the written request is delivered to the spam or junk-mail folder and date and time the individual first becomes aware of the written request. The individual must forward those dates and times to the Public Record Coordinator with the written request.

E. Public Record Request Response Time

Unless otherwise agreed to in writing by the person making the Public Record request, within five (5) business days of the receipt of the Public Record request by the Public Record Coordinator, the MICRC, through its Public Record Coordinator, shall provide a written response to the person who submitted the Public Record request. The MICRC may extend the time for responding by an additional ten (10) business days by notifying the requesting person in writing of the reason for the extension and the new due date. Due to the short statutory time period within which the MICRC must issue a written notice in response to the Public Record request, it is imperative that there be no delay in complying with these Public Record procedures and guidelines.

F. Response to a Public Record Request

The MICRC will provide copies of these Procedures and Guidelines and the written public summary of such with each written response or provide a link to an online version of these documents. If a request is denied, in full or in part, the MICRC will provide the requester an explanation of the basis of the denial and give notice to the requester of his or her remedial rights.

G. Notification of Public Record Request

Upon receipt of a Public Record request, the MICRC's Public Record Coordinator will email the individual(s) or office(s) that might possess records responsive to the Public Record request.

H. Assessment of Fees for a Public Record Request

The MICRC may charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from non-exempt material, but only if the failure to charge a fee would result in unreasonably high costs to the MICRC because of the nature of the request in the particular instance and the MICRC specifically identifies the nature of these unreasonably high costs.

The following fee guidelines shall be used for calculating labor and material costs incurred in processing Public Record requests:

1. Fees will be uniform and not dependent upon the identity of the requesting person.

2. Fees will be itemized using a detailed itemization of fees and will include:
 - Labor costs for the search, location, and examination of public records will be calculated based on who is doing the work and who is capable of doing the work. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - Labor costs for the review of public records and separation and deletion of exempt from non-exempt material will be calculated based on who is doing the work and who is capable of doing the work. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - Non-paper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided.
 - Duplication and publication costs will be calculated using the actual total incremental cost of necessary duplication or publication of a public record, not including labor. The actual and incremental cost, calculated per sheet, shall be charged and will not exceed \$0.10 per sheet of paper for black and white copies on letter or legal-size paper. The most economical means available for making copies, including the use of double-sided printing, shall be utilized if cost-saving and available. Actual costs for irregular size or color copies, if available, may be assessed.
 - Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on non-paper physical media or through electronic means, will be calculated based on who is doing the work and who is capable of doing the work. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - Actual costs of mailing using a reasonably economical and justifiable manner.
3. Overtime work or wages shall not be included in the labor costs described in these procedures and guidelines.
4. Labor costs for monitoring an inspection of original records will be calculated based on who is doing the work and who is capable of doing the work. Note: Section 3(3) of the Act, being MCL 15.233(3), provides, in pertinent part, that "[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction."

I. Deposit Requirements.

If the estimated fee to process a Public Record request is greater than \$50.00, a good-faith deposit will be required from the requestor before processing the Public Record request. The deposit shall not exceed 1/2 of the total estimated fee except where that person has a previously unpaid Public Record request.

A request from a person who has not paid for copies of records, which were made available for the person in his/her previously submitted Public Record request, may require a deposit of 100%

of the estimated labor costs and duplication fees before processing begins on the new Public Record request from that person.

Any written notice containing a notice of a deposit shall also contain a best effort estimate regarding the time frame after a deposit is received that it will take to provide the public records to the requestor. The time frame estimate is not binding but shall provide the estimate in good faith and strive to be reasonably accurate.

J. Inspection of Records

At the request of the person making the request, a reasonable opportunity for inspection of non-exempt public documents shall be allowed during normal business hours. The Public Record Coordinator must remove exempt material before the inspection. In addition to the labor cost for separation of exempt and non-exempt material prior to an inspection, labor costs for monitoring an inspection of original records will be calculated. A fee will be charged if it is necessary to make a copy of a document to redact a portion that is exempt.

K. Appeals of Fees and Disclosure Determinations

If a fee is charged or all or part of a request is denied, the requestor may submit to the Executive Director of the MICRC, or, in **their** absence, to the full Commission, a written appeal that specifically states the word "appeal" and identifies the basis for which the fee should be reduced, or the disclosure determination should be reversed. If the request or appeal is during a time when the Commission is dormant, then it will be handled by the Michigan Department of State pursuant to their standard FOIA policy and practices.

L. Posting of Public Records

Once the requestor obtains their public record. The MICRC's Public Records Coordinator will facilitate posting that public record to be accessible freely to the public from the MICRC's website.